



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/652,431	08/31/2000	Roland M. Morley	INTL-0455-US (P9809)	3795

7590

06/07/2004

Timothy N Trop
Trop Pruner & Hu PC
Ste 100
8554 Katy Freeway
Houston, TX 77024

EXAMINER

JELINEK, BRIAN J

ART UNIT	PAPER NUMBER
----------	--------------

2615

DATE MAILED: 06/07/2004

2

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/652,431

Applicant(s)

MORLEY, ROLAND M.

Examiner

Brian Jelinek

Art Unit

2615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 8/31/2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

This is a first office action in response to application no. 09/652,431 filed on 8/31/2000 in which claims 1-24 are presented for examination.

Claim Objections

Claims 8, 13-14, 16, 18-19, and 23-24 are objected to because of the following informalities: there is insufficient antecedent basis for the limitation in the claim.

Claim 8 recites the limitation "the user " in line 2 of claim 8.

Claim 13 recites the limitation "said user " in line 2 of claim 13.

Claims 14 and 16 recite the limitation "said first and second optical paths " in line 2 of claim 14; and lines 2 and 3 of claim 16.

Claim 18 recites the limitation "said eyepiece " in lines 2-3 of claim 18.

Claim 19 recites the limitation "said eyepiece " in line 4 of claim 19.

Claim 23 recites the limitation "the user " in line 2 of claim 23.

Claim 24 recites the limitation "the imaging array " in line 3 of claim 24.

Appropriate correction is required

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 20-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Labaziewicz (U.S. Pat. No. 4,772,903) in view of Abe et al. (U.S. Pat. No. 6,130,714).

Regarding claim 20, Labaziewicz teaches a camera (col. 1, lines 7-11) comprising: a first optical path (Fig. 2, elements X, Y, and Z) having a lens with a first field of view (Fig. 2, element 9); a second optical path (Fig. 2, element Z) including a lens with a second field of view (Fig. 2, element 11) different from said first field of view (col. 3, lines 23-25; 103 rejection of claim 10); an image capture device (col. 1, lines 7-11) to selectively (col. 4, line 66-col. 5, line 2) receive an image from one of said first and second optical paths (Fig. 2, element 23; col. 3, lines 51-54; col. 3, lines 27-51).

Labaziewicz does not teach an eyepiece to display the image received by the image capture device because the eyepiece is not in the first or second optical path. However, it is well known to provide an eyepiece that directly displays an image received by an image capture device in order to eliminate parallax effects between the eyepiece and the image capture device. Abe et al. teaches a viewing system with a beamsplitter located in the optical path between a lens system (Fig. 1A, element 10; col. 2, line 65) and an imaging element (Fig. 1A, element I; col. 2, lines 66) in order to divide an optical path to include an eyepiece (Fig. 1A, element 50; col. 3, line 3). As a result, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide an eyepiece in the optical path in order to eliminate parallax effects and to allow a user to view the same image seen by the imaging element.

Please note that while Labaziewicz teaches two optical systems, both are selectively switched onto the same optical path, which allows the device of Abe et al. to view an image from both a first and second optical system from a single optical path.

Regarding claim 21, please see the 103 rejection for claim 6 and note that Labaziewicz teaches a first optical path includes a shutter and a second optical path includes a shutter.

Regarding claim 22, please see the 103 rejection for claim 7 and note that Labaziewicz teaches the shutters are controlled so that only one of said shutters is open at a time.

Regarding claim 23, please see the 103 rejection for claim 8 and note that Labaziewicz teaches a controller to enable a user to select one of said shutters to pass light.

Claims 1-2, 5-19, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Labaziewicz (U.S. Pat. No. 4,772,903) in view of Abe et al. (U.S. Pat. No. 6,130,714) and further in view of Ishiguro (U.S. Pat. No. 5,483,284).

Regarding claim 1, Labaziewicz teaches an imaging device (col. 1, lines 7-11) comprising: an imaging element (col. 1, lines 7-11); a first optical system to selectively provide an image to an imaging element (Fig. 2, elements 23, 9, X, Y, and Z; col. 3, lines 51-54); and a second optical system to selectively provide an image to an imaging element (Fig. 2, elements 23, 11, and Z; col. 3, lines 51-54). Furthermore, Labaziewicz teaches providing a viewfinder (Fig. 1, element 51; col. 4, line 65-col. 5, line 4).

However, Labaziewicz does not teach that the eyepiece views the image selectively provided to the imaging element from one of said first or second optical systems because the viewfinder is not in the optical path of light entering through a first and second lens. However, it is well known to provide an eyepiece that directly views the image provided to the imaging element in order to eliminate parallax effects. Abe et al. teaches a viewing system with a beamsplitter (Fig. 1A, element 20) located in the optical path between a lens system (Fig. 1A,

Art Unit: 2615

element 10; col. 2, lines 63-67) and an imaging element (Fig. 1A, element I; col. 2, lines 63-67) in order to divide the optical path for inclusion of an eyepiece (Fig. 1A, element 50; col. 3, line 3). As a result, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide an eyepiece in the optical path in order to eliminate parallax effects between the eyepiece and imaging element and to allow a user to view the same image seen by the imaging element. Please note that while Labaziewicz teaches two optical systems, both are selectively switched onto the same optical path, which would allow the device of Abe et al. to view both first and second optical systems from a single optical path.

Furthermore, although Labaziewicz provides an imaging element, he does not teach that it is an imaging array. However, it is well known in the art to provide a camera with a CCD imaging array in order to enable the viewing, storing, and/or transmitting of images taken by the camera without further processing, such as film processing. Ishiguro teaches a removable photograph back panel with an attachable electronic photographic adapter (Abstract, lines 7-11; col. 2, lines 18-20) comprising a CCD imaging array (Fig. 4, element 112; col. 3, line 52) that allows images to be recorded to a computer disk (col. 3, lines 52-56). As a result, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide a CCD imaging array in the camera of Labaziewicz in order to allow images to be recorded to a computer disk and to enable the viewing, storing, and/or transmitting of images taken by the camera without further processing, such as film processing.

Regarding claim 2, Labaziewicz and Ishiguro teach the imaging device is a camera (Labaziewicz, col. 1, lines 7-11; Ishiguro, Fig. 1).

Regarding claim 5, Ishiguro teaches that the image signal output from a CCD imaging array (Fig. 4, element 112) is processed by a signal processing circuit before being recorded to an IC card (Fig. 4, element 113; col. 3, lines 52-56). Although Ishiguro does not specifically teach that the CCD imaging array is a digital sensor or that the signal processing circuit performs A/D conversion, it is well known in the art to provide A/D conversion before storing an image onto an IC card as a conventional form for storing image data. Official notice is given that it would have been obvious to one of ordinary skill in the art at the time of the invention to provide a digital image sensor by providing an A/D converter for a CCD imaging array for the purpose of converting an analog output of the CCD imaging array into a digital output before storing an image to an IC card since such is conventional in the art.

Regarding claim 6, Labaziewicz teaches a first optical system (Fig. 2, elements 9, X, Y, and Z) includes a shutter (Fig. 2, element 23) and a second optical system (Fig. 2, elements 11 and Z) includes a shutter (Fig. 2, element 23) because the mirror can selectively block light from both the first and second optical systems.

Regarding claim 7, Labaziewicz teaches that shutters are controlled so that only one of the shutters is open at a time (Fig. 2, element 23; col. 3, lines 51-54; col. 3, lines 23-51) because a mirror can shutter both a first and second optical system.

Regarding claim 8, Labaziewicz teaches a controller enables a user to select (col. 4, line 66-col. 5, line 2) one of said shutters to pass light (Fig. 2, element 23; col. 3, lines 51-54; col. 3, lines 23-51)

Regarding claim 9, Abe et al. teaches including a beamsplitter (Fig. 1A, element 20; col. 2, line 65) that causes light from an optical system to be passed both to an imaging element and

an eyepiece (Fig. 1A, elements I and 50; col. 2, lines 63-67; col. 3, line 3). It should be noted that while Labaziewicz teaches two optical systems, both are switched onto the same optical path allowing the device of Abe et al. to view and image both optical systems from a single optical path.

Regarding claim 10, Labaziewicz teaches a first optical system includes a lens with a narrower field of view (Fig. 2, element 9) and a second optical system includes a lens with a wider field of view (Fig. 2, element 11) because lens 9 is described as having a long focal length and lens 11 is described as having a short focal length (col. 3, lines 23-25). One skilled in the art would know that the focal length and field of view of a lens are related and would recognize that a long focal length corresponds to a narrower field of view and a short focal length corresponds to a wider field of view.

Regarding claim 11, Labaziewicz teaches a first optical system (Fig. 2, elements 9, X, Y, and Z) includes a first lens (Fig. 2, element 9) and a second optical system (Fig. 2, elements 11 and Z) includes a second lens (Fig. 2, element 11), said first lens having a higher magnification than said second lens because lens 9 is described as having a long focal length and lens 11 is described as having a short focal length (col. 3, lines 23-27). One skilled in the art would know that the focal length and magnification of a lens are related and would recognize that a long focal length corresponds to a higher magnification and a short focal length corresponds to a lower magnification.

Regarding claim 12, Labaziewicz teaches a method comprising: providing a first image to an imaging element (col. 1, lines 7-11) along a first light path (Fig. 2, elements 9, X, Y, and

Z); and providing a second image to said imaging element along a second light path (Fig. 2, elements 11 and Z).

Although Labaziewicz provides an imaging element, he does not teach that it is an imaging array. However, it is well known in the art to provide a camera with a CCD imaging array to enable the viewing, storing, and/or transmitting images taken by the camera without further processing, such as film processing.

Ishiguro teaches a removable photograph back panel with an attachable electronic photographic adapter (Abstract, lines 7-11; col. 2, lines 18-20) comprising a CCD imaging array (Fig. 4, element 112; col. 3, line 52). As a result, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the CCD imaging array of Ishiguro in the camera of Labaziewicz in order to enable the the viewing, storing, and/or transmitting of images taken by the camera without further processing, such as film processing.

Furthermore, Labaziewicz teaches providing a viewfinder (Fig. 1, element 51; col. 4, line 65-col. 5, line 4). Labaziewicz does not teach that the viewfinder enables selective viewing of one of a first or second image provided by a first and second optical system because the viewfinder is not in the optical path of light entering through a first and second lens. However, it is well known to provide an eyepiece that directly views the image provided to the imaging element in order to enable a user to compose an image before capturing the image without parallax effects.

Abe et al. teaches a viewing system with a beamsplitter (Fig. 1A, element 20) located in the optical path between a lens system (Fig. 1A, element 10; col. 2, lines 63-67) and an imaging element (Fig. 1A, element I; col. 2, lines 63-67) in order to divide the optical path for inclusion

of an eyepiece (Fig. 1A, element 50; col. 3, line 3). As a result, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide an eyepiece in the optical path in order to eliminate parallax effects between the eyepiece and the imaging element and to enable selective viewing of one of the first or second image.

In addition, please note that while Labaziewicz teaches two optical systems, both are selectively switched onto the same optical path, allowing the device of Abe et al. to view the images of both optical systems from a single optical path.

Regarding claim 13, Abe et al. teaches a selected image is simultaneously viewed by a user and captured by an imaging array (Fig. 1A, elements 50 and I; col. 1, line 8) because the beamsplitter (Fig. 1A, element 20; col. 2, line 65) simultaneously passes light to both an image pickup surface (Fig. 1A, element I; col. 2, lines 66) and an eyepiece (Fig. 1A, element 50; col. 3, line 3). In addition, while Labaziewicz teaches two optical systems, both are selectively switched onto the same optical path, which would allow the device of Abe et al. to view both images from a first and second optical system from a single optical path.

Regarding claim 14, Labaziewicz teaches selectively (col. 4, line 66-col. 5, line 2) shuttering one of the first and second optical paths (Fig. 2, element 23; col. 3, lines 51-54; col. 3, lines 27-51).

Regarding claim 15, Labaziewicz teaches selectively (col. 4, line 66-col. 5, line 4) closing one of said first and second optical paths while opening the other of said first and second optical paths (Fig. 2, element 23; col. 3, lines 27-54).

Regarding claim 16, please see the 103 rejection for claim 10 and note that Labaziewicz teaches a first and second optical path have a different field of view.

Regarding claim 17, please see the 103 rejection for claim 11 and note that Labaziewicz teaches a first and second optical path have a different magnification.

Regarding claim 18, Labaziewicz teaches enabling a user to select (col. 4, line 66-col. 5, line 2) one of first and second optical paths to pass an image (Fig. 2, element 23; col. 3, lines 51-54; col. 3, lines 27-51). In addition, please see the 103 rejection for claim 13 and note that Abe et al. teaches that an image is passed to an eyepiece and an imaging array.

Regarding claim 19, please see the 103 rejection for claim 13 and note that Abe et al. teaches splitting a light path from each of a first and second optical system to cause part of the light to go to an imaging array and part of said light to go to an eyepiece.

Please note that while Labaziewicz teaches two optical systems, both are selectively switched onto the same optical path, which would allow the device of Abe et al. to view and image both first and second optical systems from a single optical path.

Regarding claim 24, please see the 103 rejection for claim 9 and note that Abe et al. teaches including a beamsplitter to enable light from each optical path to be passed both to an image capture device and an eyepiece.

Furthermore, although Labaziewicz provides an imaging element, he does not teach that it is an imaging array. However, it is well known in the art to provide a camera with a CCD imaging array in order to enable the viewing, storing, and/or transmitting of images taken by the camera without further processing, such as film processing. Ishiguro teaches a removable photograph back panel with an attachable electronic photographic adapter (Abstract, lines 7-11; col. 2, lines 18-20) comprising a CCD imaging array (Fig. 4, element 112; col. 3, line 52) that allows images to be recorded to a computer disk (col. 3, lines 52-56). As a result, it would have

been obvious to one of ordinary skill in the art at the time of the invention to provide a CCD imaging array in the camera of Labaziewicz in order to allow images to be recorded to a computer disk and to enable the viewing, storing, and/or transmitting of images taken by the camera without further processing, such as film processing.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hoover et al. (U.S. Pat. No. 6,400,395) in view of Abe et al. (U.S. Pat. No. 6,130,714).

Regarding claim 3, Hoover et al. teaches a microscope imaging device (col. 1, lines 5-7) comprising: an imaging array (col. 6, lines 57-62). Furthermore, Hoover et al. teaches a first and second optical system to selectively provide an image to said array (col. 5, lines 19-28) because each lens in the turret comprises a different optical system.

Although Hoover et al. teaches that most microscopes permit viewing by the human eye, the device he discloses uses a camera in place of an eyepiece. However, it is well known to provide an eyepiece that directly views the image provided to an imaging array in order to capture images that are simultaneously viewed by an eyepiece.

Abe et al. teaches a viewing system with a beamsplitter (Fig. 1A, element 20) located in the optical path between a lens system (Fig. 1A, element 10; col. 2, lines 63-67) and an imaging element (Fig. 1A, element I; col. 2, lines 63-67) in order to divide the optical path for inclusion of an eyepiece (Fig. 1A, element 50; col. 3, line 3). As a result, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide an eyepiece in the optical path in order to allow the image to be viewed by eye before being captured by a still camera.

Please note that while Hoover et al. teaches two optical systems, both are selectively switched onto the same optical path, which would allow the device of Abe et al. to view both a first and second optical systems from a single optical path.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nakamoto (U.S. Pat. No. 5,121,220).

Regarding claim 4, Nakamoto teaches a telescope imaging device (col. 1, lines 5-7 and lines 48-49) comprising: an imaging element (provided within an attached camera) (col. 1, lines 48-49; col. 5, lines 23-31). In addition, Nakamoto teaches a first and second optical system to selectively provide an image to an imaging element (Figs. 1 and 5; col. 4, line 65-col. 5, line 1; col. 5, lines 24-31) because each magnification lens comprises a different optical system. Furthermore, Nakamoto teaches an eyepiece (Figs. 1 and 2; col. 2, lines 21-24) to view the image selectively provided to the imaging element from one of said first or second optical systems (Fig. 5).

Please note that an attached camera is not identified as containing an imaging array. However, Official Notice is given that it is well known to construe a camera as an electronic camera containing a CCD imaging array. Such an arrangement enables the viewing, storing, and/or transmitting of images taken by the camera without further processing, such as film processing. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to configure the attached camera of Nakamoto to have a CCD imaging array in order to enable the viewing, storing, and/or transmitting of images taken by the camera without further processing, such as film processing.

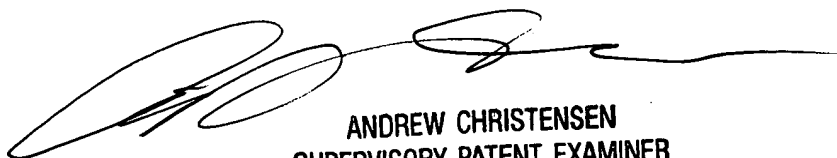
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Jelinek whose telephone number is (703) 305-4724. The examiner can normally be reached on M-F 8:00 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Christensen can be reached on (703) 308-9644. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Brian Jelinek
5/14/2004



ANDREW CHRISTENSEN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600